

**REMARKS/ARGUMENTS**

Claims 38-40, 42, and 44 were examined and rejected. Independent claims 38 and 42 have been amended. Re-examination and reconsideration in view of the amendments and the following remarks are respectfully requested.

The sole issue remaining in this prosecution is the rejection of all pending claims as being obvious over U.S. Patent No. 5,304,115 to Pflueger et al. in combination with U.S. Patent No. 5,344,395 to Whalen et al. Such rejections are traversed in part and overcome in part, as discussed below.

Independent claims 38 and 42 herein, the only remaining independent claims are directed at a device and a method for dissolving occlusive materials in a body lumen. In particular, they both recite the use of low-frequency vibration, including rotational motion about the longitudinal axis and at least one of **axial** translational motion and **rotational** oscillatory motion. The bolded language has been added in the present amendment. Support for these amendments is found at various places in the application, including page 9, lines 3-5 which describes axial translational vibratory motion and page 9, lines 5-14, which describe rotational oscillatory motion with reference to Fig. 9.

Thus, all claims as now amended, require that the device and method utilize a catheter which can transmit rotational motion and, in addition, at least one of "axial translational motion" and "rotational oscillatory vibrational motion." Neither the cited Pflueger nor the cited Whalen patents teach or suggest a combination.

Pflueger '115 is directed at a vibrational catheter which delivers axial translation which may include a transverse or side-to-side component. See, the description at Col. 12, lines 3-9. It appears that such transverse vibratory motion may result from the eccentric mounting of the drive head such as shown in Fig. 12.

While Pflueger '115 refers to rotation of the transmission member at a number of points, such rotation is meant to be manual rotation by the treating physician, e.g. using the component X as shown in Fig. 6. Applicants note the following discussions of such rotation in the specification: Col. 9, lines 16-23; Col. 9, lines 59-66; Col. 9, lines 15-19; Col. 9, lines 30-41;

Col. 11, lines 1-10; and Col. 12, lines 9-17. Such disclosures simply do not amount to rotational vibrational motion as required by both claims 38 and 42.

The Whalen '395 patent, although related to low frequency vibration, nowhere teaches or suggests any vibrational pattern other than axial translation. Thus, neither of the references being relied on describe the type of vibrational motion set forth in the two pending independent claims, i.e. a rotational vibrational motion that is combined with either or both of axial translational vibrational motion and oscillatory vibrational motion.

For these reasons alone, Applicants believe that the rejection for obviousness has been overcome.

Applicants further believe, however, that one skilled in the art would lack motivation for combining Pflueger '115 and Whalen '395 for the same reasons set forth in the prior response. Whalen specifically teaches against allowing "transverse oscillation of the catheter assembly during oscillation of the core wire axially." Col. 6, lines 55-61. This is in contrast to Pflueger '115 where, in at least some embodiments, the wire and therefore the catheter assembly are intentionally caused to have a side-to-side vibratory movement resulting from the combination of axial motion and the eccentric distal tip structure.

### CONCLUSION

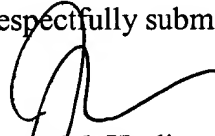
In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and request that the application be passed to issue at an early date.

Appl. No. 09/704,967  
Amdt. dated July 12, 2004  
Reply to Office Action of March 16, 2004

PATENT

If for any reason the Examiner believes that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at (650) 326-2400.

Respectfully submitted,



James M. Heslin  
Reg. No. 29,541

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400  
Fax: 415-576-0300  
Attachments  
JMH:jis/jke  
60193677 v1